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C O N F I D E N T I A L SECTION 01 OF 06 BAKU 001356

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SUBJECT: AZERBAIJAN: EUR A/S FRIED REVIEWS DEMOCRACY AND
HUMAN RIGHTS ISSUES WITH FM MAMMADYAROV

REF: A. STATE 118576

[1](#)B. BAKU 01084

[1](#)C. BAKU 01126

[1](#)D. BAKU 00714

Classified By: Ambassador Anne E. Derse per 1.4 (b,d).

[1](#)1. (C) Summary: EUR A/S Fried and the Ambassador reviewed democracy and human right issues with Foreign Minister Mammadyarov in a November 5 meeting, as part of our ongoing high-level dialogue (ref a). Fried emphasized that free and fair presidential elections in 2008 would strengthen Azerbaijan and offered to share U.S. suggestions on steps Azerbaijan could take to improve the electoral climate, an offer Mammadyarov accepted. Mammadyarov recognized that composition of the electoral commission was a key issue and said the GOAJ was mulling a shift to a presidentially appointed commission, a proposal Fried urged the GOAJ to review with the Council of Europe (COE) and OSCE. Highlighting our concern over the recent conviction of journalist Eynulla Fatullayev on terrorism charges, Fried urged Mammadyarov to take immediate steps to improve the media environment; he also shared U.S. ideas for an alternative dispute resolution mechanism for libel complaints. Mammadyarov said the GOAJ was working with the COE to revise its freedom of assembly law.

[1](#)2. (C) Summary continued: Fried and the Ambassador also raised religious freedom concerns, noting that certain Christian and Muslim groups were under increasing pressure. Mammadyarov urged the Ambassador to raise these concerns with the Head of the Caucasus Muslim Board. Briefing Fried on GOAJ plans to provide financial support for NGOs, Mammadyarov noted his concern over plans to create a new state agency and pledged to raise the issue with President Aliyev. Mammadyarov also expressed frustration over the Ministry of Justice's continuing refusal to register the Election Monitoring Commission (EMC). The Ambassador briefed Mammadyarov on the Embassy's views on the new anti-corruption action plan, urging the GOAJ to robustly implement new ministry-specific action plans and bring civil society more formally into the state anti-corruption committee. Mammadyarov countered that the Embassy's failure to pay taxes for its local staff was an equally important rule of law issue; Fried responded that the U.S. acknowledged this concern and was working on a solution. Touching on regional issues, Mammadyarov affirmed that Azerbaijan was "serious" about a solution to the Nagorno-Karabakh conflict and asked for U.S. support on GUAM's UNGA resolution on regional conflicts. End summary.

13. (SBU) In a nearly two-hour meeting on November 5, visiting EUR A/S Daniel Fried and the Ambassador reviewed democracy and human rights issues with Foreign Minister Elmar Mammadyarov as part of our regular high-level dialogue on these issues. The most recent session was held via video conference in August (ref a). Mammadyarov was decidedly more prepared for this session and was flanked by four aides who were prepared to discuss specific subjects.

14. (SBU) The Foreign Minister began the meeting by noting that the GOAJ wanted to add another rule of law point to the democracy dialogue agenda: unresolved problems regarding the payment of taxes by the Embassy's local staff. Mammadyarov said that the U.S. was in the company of states such as Belarus and Iran on this issue; he has been warned by the Minister of Finance that criminal charges will be pressed if the U.S. Embassy's local staff does not pay their taxes. The Ambassador responded that the Embassy is working on this issue. As indicated in a May diplomatic note, the Embassy pledged to accredit its staff within one year of the note. The Ambassador briefed Mammadyarov on the Embassy's views on the GOAJ's new anti-corruption plans, urging the GOAJ to robustly implement ministry-specific action plans and bring civil society more formally into the government's anti-corruption efforts.

POLITICAL PROCESS REFORM

15. (C) Fried briefed Mammadyarov on his meetings over the last two days, noting that he had met the Ministers of Justice and Internal Affairs, Presidential Chief of Staff Ramiz Mehdiyev, journalists, youth activists, and

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representatives from civil society and political parties. Fried noted that Azerbaijan's youth appeared to be share the government's vision of Azerbaijan as an independent, secular, western-oriented country, and that the youth should be a natural constituency for the government. However, young people are worried about the recent conviction of journalist Eynulla Fatullayev. Fried commented that the youth seemed to want to help Azerbaijan on its path toward democratic reform.

Mammadyarov responded that "we can't compare Azerbaijan to the United States." Democratic reform, Mammadyarov said, is a "generational process."

16. (C) Fried noted that he had discussed Azerbaijan's 2008 presidential election in separate meetings with President Aliyev and his chief of staff Ramiz Mehdiyev. Fried heard the President's concerns about ODIHR's neutrality and said he would urge ODIHR Director Strohal to "play straight" with Azerbaijan in its observation of and reporting on the 2008 election. Fried continued that free and fair elections would work to Azerbaijan's advantage, and that the U.S. hoped the GOAJ would work to create a climate for a normal election. The U.S. has specific ideas on how Azerbaijan could work toward a free and fair election, Fried said, but leadership by the Azerbaijani government will be required. Fried noted that current efforts in Russia to manipulate its political process are "a joke, like Soviet times," and that the U.S. wants to see Azerbaijan succeed in its democratic goals.

17. (C) Mammadyarov responded that the GOAJ agrees fully with Fried's view on the 2008 election. President Aliyev is the "last person to falsify elections." Mammadyarov noted that Azerbaijan did not endorse Russia's recent request to reduce OSCE/ODIHR election observers, although six other CIS member states signed the Russian letter. Mammadyarov continued that Azerbaijan is "not hiding any issues" with respect to elections; the GOAJ recognizes that "real things must be addressed," such as changes to the electoral commission, as recommended by the Council of Europe's Venice Commission. Mammadyarov said the GOAJ is mulling a shift to a presidentially appointed Central Election Commission (CEC),

such as the model adopted by Georgia. The GOAJ, Mammadyarov said, believes that a CEC with fifty percent representation by the opposition "will not be a working model." Fried urged Mammadyarov to seek advice from the Council of Europe (COE) and ODIHR on how best to revise Azerbaijan's electoral commissions, noting that the GOAJ needs to find a solution that will meet international standards. Mammadyarov responded that the GOAJ is working with the COE's Venice Commission in this regard, and that he was increasing his involvement in the issue.

MEDIA FREEDOM

¶18. (C) Mammadyarov opened the discussion by stating, "You know my position. There is no journalist in Azerbaijan in the real sense." Mammadyarov said he greatly appreciated U.S. efforts to increase professional training for journalists and was encouraging the EU to pursue similar training, possibly by new scholarships to European journalism schools. He said the GOAJ is "still working on defamation and decriminalizing libel." Mammadyarov warned that foreign pressure for the release of jailed journalists should be reduced, noting that it is "not good" if the GOAJ is seen as responding to international pressure on this issue. "I share this view," Mammadyarov added.

¶19. (C) Fried responded that media freedom is an important political issue. The recent conviction and sentencing of journalist Eynulla Fatullayev on terrorism charges does not look good, nor does the series of arrests and violent attacks against journalists. Fried urged the GOAJ to investigate and prosecute the cases of violence against journalists; he noted that these cases are hurting Azerbaijan's international standing. Fried said that he had raised Fatullayev's case with the Minister of Justice, who responded that he could not comment as the case was under appeal.

¶10. (C) Fried asked Mammadyarov for an update on the investigation into the March 2005 murder of journalist Elmar Huseynov. Mammadyarov responded that the GOAJ had identified two "hired killers," but it was unclear who had ordered Huseynov's murders. According to Azerbaijan's Ministry of National Security, the two killers remain in Georgia, Mammadyarov said. The Ambassador raised two recent cases of

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violence against journalists, expressing our concern over the arrest and beating of Yeni Musavat journalist Hakimeldostu Mehdiyev and the beating of independent journalist Suhayila Gambarova by court bailiffs while she was covering an illegal eviction.

¶11. (C) Fried noted that he had spent time with students at the Azerbaijan-America Journalism Academy, which is supported in part by the U.S. Government. The students, Fried said, seek a way to work honestly in Azerbaijan's complex media environment, and the U.S. is working to support their efforts. Fried shared a background paper on U.S. training programs for journalists. Mammadyarov responded that the Foreign Ministry also was working to improve the professionalism of Azerbaijan's journalists. MFA Spokesperson Khazar Ibrahim briefed Fried on the Ministry's new weekly briefing for journalists that includes journalists from independent, pro-government and opposition media, and efforts to expand on- and off-the-record briefings. Ibrahim said he would like to include students from the Journalism Academy in the briefings. He noted that the MFA is partnering with the British Council to train journalists and that the Azerbaijan Diplomatic Academy will soon offer training programs for journalists. Mammadyarov noted that the Fatullayev case had sparked a debate about the professionalism of journalists.

¶12. (C) Fried urged the GOAJ to develop an alternative dispute resolution mechanism to mediate and resolve libel

complaints. He noted that the U.S. had several good models, and offered to help arrange a visit by the Minnesota Press Council. Mammadyarov asked whether Azerbaijan's Human Rights Ombudswoman could play a helpful role in resolving libel complaints. Mammadyarov promised to look into this model, but said the problem was rooted in the "maturity" of Azerbaijan's society and institutions. "You cannot expect us to develop overnight," Mammadyarov added, "but we are moving in this (the right) direction."

RESPECT FOR HUMAN RIGHTS

¶13. (C) Mammadyarov said that the GOAJ has been working with the COE's Venice Commission to revise its law on freedom of assembly. The next meeting on this issue will be held in November in Baku, and Mammadyarov said the GOAJ plans to present a draft law to parliament in its spring 2008 session.

While she welcomed the news, the Ambassador noted that civil society and political parties continue to face severe restrictions on their ability to peacefully assemble. A coalition of NGOs plan to seek permission for a rally on December 10 to mark International Human Rights Day, and she urged the GOAJ to allow this rally to take place. The Ambassador promised to send Mammadyarov information regarding the planned rally. The Foreign Minister acknowledged that the Mayor of Baku, who has consistently denied requests for protests for nearly a year, is "a problem."

¶14. (C) The Ambassador raised the United States' concerns about religious freedom in Azerbaijan, noting that we had information that some groups were under increasing pressure. Baptist Pastor Zaur Balaev, for example, had been arrested on property charges that the Baptists consider to be harassment.

Mammadyarov said he is very familiar with this case. Balaev had been engaged in illegal construction and, when the court ordered a halt to the construction, Balaev resisted arrest. He was charged and convicted of resisting arrest (Article 315.1 of the criminal code), and his conviction was held up on appeal. Balayev "always has problems," Mammadyarov said; he and the Jehovah's Witnesses "create headaches for everyone." "If they follow the rules," Mammadyarov said, "there will be no problems." He urged the Ambassador to raise these concerns with Sheikh Pashazade, the head of the Caucasus Muslim Board. Mammadyarov added that he personally may be willing to intervene on a case-by-case basis.

¶15. (C) The Ambassador noted that Muslim groups also were under increasing pressure. Mammadyarov acknowledged that the Ministry of Internal Affairs had gone overboard in its efforts to appear responsive to recent terrorist threats, even arresting Ministry of National Security agents working within certain Islamic groups. The Ambassador responded that the threat of extremism in Azerbaijan made it even more important to encourage moderate Islam; discussion and

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openness, she said, are good for Azerbaijan. Mammadyarov said that the GOAJ is working to promote moderate Islam, but also is working to keep out foreign influences. He acknowledged this is difficult, noting that Azerbaijan's law preventing foreign imams from leading prayer services was creating tensions with Turkey, as the GOAJ currently was asking that a prominent imam leave. "We have free worship in Azerbaijan," he said, "just look at Guba" (where a Jewish community has existed for many years). The Ambassador said the U.S. wants to work with Azerbaijan to preserve its reputation on religious freedom.

¶16. (C) Noting that he had a lively discussion with religious analysts about prospects for extremism in Azerbaijan, Fried urged the GOAJ to find the right balance between its legitimate security concerns and the legitimate values of tolerance and freedom of conscience. Mammadyarov acknowledged the need for balance, stating that education is

key. He added that Iran is working hard to promote its own agenda, sending young Azerbaijanis to study in Qom. The Ambassador expressed concern that GOAJ controls over Islamic education could prove detrimental, adding that the State Committee for Religious Affairs had recently closed GOAJ-sanctioned Koranic classes, driving students to pursue unofficial studies that potentially could advocate radicalism. Mammadyarov responded that, in his personal view, it is better to have poorly educated mullahs, as "people don't listen to them." Fried offered to arrange connections with U.S. moderate Islamic thinkers, noting that his Special Advisor Farah Pandith had traveled to Azerbaijan and could provide programming ideas. Mammadyarov welcomed the idea, noting that as Chair of the OIC Foreign Ministerial Conference, Azerbaijan had sought to build closer ties between the OIC and the U.S.

CIVIL SOCIETY

¶17. (C) Mammadyarov provided an overview of the GOAJ's plans to provide financial support for NGOs, announced in a July 27 presidential decree (ref b). Mammadyarov said the GOAJ planned to implement the new NGO concept in a spirit of partnership and transparency, and had been working with the international community to seek its feedback on international best practices. (Comment: Emboffs and others in the international community have attended several meetings with Presidential Advisor Ali Hasanov on this issue, stressing repeatedly that any GOAJ support for NGOs must be provided in a way that strengthens, rather than hinders, the development of civil society.) Mammadyarov said the Presidential Apparatus was developing plans for a new state agency that will administer GOAJ support for NGOs, commenting that this reflected old style "Soviet" approaches and plans to raise his concerns with President Aliyev. Fried and the Ambassador noted that state structures to oversee civil society would neither be effective nor appropriate. They gave Mammadyarov and his staff copies of the Secretary's NGO Principles and encouraged the GOAJ to formally endorse them. Mammadyarov noted that he had received the NGO Principles from then-DRL A/S Lowenkron and said that he hoped to work with Lowenkron in his new position with the MacArthur Foundation to introduce similar grant-making bodies in Azerbaijan.

¶18. (C) Mammadyarov acknowledged that the GOAJ had made no progress in registering the Election Monitoring Center (EMC). With some frustration, Mammadyarov said this is "another ridiculous situation," explaining that the Ministry of Justice acknowledged that EMC had been working for many years in Azerbaijan. The Ambassador emphasized that EMC, in fact, was not able to complete its full range of election observation work without registration, as it could not file election complaints. Mammadyarov acknowledged the problem and said that he had raised EMC's registration with both the Minister of Justice and Presidential Chief of Staff Ramiz Mehdiyev. "Sometimes they are so ridiculous," Mammadyarov said, "the mentality is a problem."

RULE OF LAW

¶19. (C) The Ambassador briefed Mammadyarov on the Embassy's views on the GOAJ's new anti-corruption plan (ref c), noting that we believed certain elements of the plan could be the

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basis for an effective attack on corruption. Specifically, the plan contained commitments to implementing financial disclosure laws for public officials, a commitment to enhancing the capacity and independence of the Prosecutor General's Anti-Corruption Office, a commitment to harmonizing and streamlining licensing procedures, and plans for regular monitoring and reporting, including by civil society. The

Ambassador urged the GOAJ to establish an independent advisory committee to oversee anti-corruption efforts and suggested that the GOAJ include formal civil society representation in its State Anti-Corruption Committee. The Ambassador said that the new, ministry-specific action plans will be key and urged the GOAJ to require specific objectives, clear indicators, strict deadlines, and systematic monitoring systems in each ministry's anti-corruption plan. Mammadyarov said he had not yet heard of this requirement for ministry-specific anti-corruption plans and had received no instructions on this issue.

¶19. (C) Mammadyarov responded that the GOAJ's recent decision to implement "one-stop shopping" for new business registration at the Ministry of Taxation (ref d) was a "huge improvement" in Azerbaijan's business climate. Mammadyarov said the GOAJ now would be required to register new businesses within 12 days, noting that "you can imagine how hard" it was to implement this change. While the U.S. welcomed this development, the Ambassador noted that information from business seemed to indicate that corruption was getting worse. The U.S. was committed to helping Azerbaijan combat corruption and was partnering with the Council of Europe on an innovative anti-corruption assistance program.

¶20. (C) The Ambassador pressed the GOAJ to present new draft anti-money laundering and counter-terrorist finance legislation to Parliament, and to establish a Financial Intelligence Unit as pledged during the U.S.-Azerbaijan Economic Partnership Commission. MFA staff responded that the new laws had been drafted and were being reviewed by Moneyval experts. The Ambassador countered that, according to U.S. information, the draft laws had been reviewed by Moneyval and U.S. experts quite some time ago and has been under review by the Presidential Apparatus. The MFA insisted that the draft legislation had not yet been presented to the Council of Europe. Mammadyarov noted that the GOAJ had signed on to the first European Convention on counter-terrorism finance and was about to sign a second European Convention on seizure of illegally gained assets. Mammadyarov acknowledged that, in the area of anti-money laundering and counter-terrorist finance legislation, Azerbaijan makes the right commitments but has problems in its implementation.

¶21. (C) Mammadyarov provided an update on Azerbaijan's judicial reforms. He noted that the 55 new judges were appointed in July, and said the GOAJ was embarking on a new USD 26 million judicial reform project with the World Bank that would build 17 new court houses, upgrade the judiciary's IT systems and providing training for judges. Mammadyarov added that the GOAJ also will spend USD 30 million to build a new Supreme Court building. The Ambassador urged the GOAJ to pursue reform of its Soviet-era Collegium of Lawyers and establish a new, independent bar association, giving Mammadyarov a concept paper that outlines specific suggestions. Mammadyarov urged the Ambassador to also share the paper with the Ministry of Justice.

¶22. (SBU) Mammadyarov repeated his earlier concerns regarding tax payments by the Embassy's local staff. He noted that, under Azerbaijani law, foreign companies are contractually obligated to pay their employees' taxes and said the U.S. Embassy was not meeting this requirement. He added that the Embassy also was remiss its obligation to accredit its local staff. The Ambassador noted Vienna Convention obligations, and Fried responded that the U.S. understood Azerbaijan's position on this issue and, as the Ambassador had stated earlier, was working on a solution.

REGIONAL AND SECURITY ISSUES

¶23. (C) Referring to Fried's earlier conversation with President Aliyev (septel), Mammadyarov said that "of course" Azerbaijan is serious about efforts to find a solution to the

Nagorno Karabakh (NK) conflict. Commenting that Sarkisian is "ready to do everything to ensure a smooth transition to the President's office," Mammadyarov said "we'll see what happens when he comes to office. Sarkisian can't serve ten years without tough decisions on the conflict." In response to Mammadyarov's concern that Kosovo could prove problematic for an NK solution, Fried said that Kosovo is not a precedent for NK or any other regional conflicts. Mammadyarov urged the U.S. to support GUAM's UNGA resolution on conflicts, noting that Azerbaijan understands the resolution won't solve anything but "we need something in hand for domestic reasons." Fried emphasized that the GUAM resolution should contain language about self-governance and said he would like to discuss this issue further at the OSCE Ministerial. Fried mentioned that the U.S. has been intensively engaged in finding a solution for the CFE impasse and was urging a multilateral process. He noted that if the Russians wanted to open territorial and national ceilings, then Azerbaijan would have the right to ask for changes. Referring to his discussions with President Aliyev regarding the Gabala radar station, Fried also noted that if the U.S. and Russia reach agreement on a broad-based, regional missile defense system, there would be implications for Azerbaijan's security. Mammadyarov urged Fried to be cautious in his public statements on Gabala, noting that the Iranians were watching developments very carefully.

COMMENT

¶24. (C) Mammadyarov was decidedly more prepared for this democracy dialogue meeting. The MFA prepared position papers for the meeting and had specific information to share on individual agenda items. As this dialogue develops, we will seek to develop a more institutionalized process, with a standing agenda that can bring in decision-makers from key ministries such as Justice and Internal Affairs. We believe that this dialogue has succeeded in prodding the GOAJ to take long overdue action on a few issues, including appointment of the 55 new judges. We also believe the dialogue provides some cover for Mammadyarov and the MFA to take a more activist role in promoting democracy with other, more reluctant GOAJ agencies. Although Mammadyarov sticks to the GOAJ line about "generational change," we believe he is one of the few GOAJ officials who genuinely seeks reform, and has been working actively to promote change not just within the MFA but with other key institutions as well. We look forward to working with the Department to identify an opportunity for the next session of our democracy dialogue.

¶25. (U) This cable has been cleared by A/S Fried.
DERSE